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Trafficking in Women and Children: The U.S. and International Response

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Trafficking in Women and Children: The U.S. and International Response

Summary

The trafficking in people for prostitution and forced labor is one of the fastest growing areas of international criminal activity and one that is of increasing concern to the United States and the international community. The overwhelming majority of those trafficked are women and children. An estimated 700,000 to 2 million people are trafficked each year worldwide; between 45,000 and 50,000 to the United States. Trafficking is now considered the third largest source of profits for organized crime, behind only drugs and weapons, generating billions of dollars annually.

Trafficking affects virtually every country in the world. The largest number of victims come from Asia, with over 225,000 victims each year from Southeast Asia and over 150,000 from South Asia. The former Soviet Union is now believed to be the largest new source of trafficking for prostitution and the sex industry, with over 100,000 trafficked each year from that region. An additional 75,000 or more are trafficked from Central and Eastern Europe. Over 100,000 come from Latin America and the Caribbean, and over 50,000 victims are from Africa. Most of the victims are sent to Asia, the Middle East, Western Europe and North America.

In 1998, the Clinton Administration launched a government-wide anti-trafficking strategy of (1) prevention, (2) protection and support for victims, and (3) prosecution of traffickers. The Bush administration has continued to focus attention on the problem. The State Department issued its first Congressionally mandated report on worldwide trafficking in July 2001. It categorized countries according to the efforts they were making to combat trafficking. Those countries that do not cooperate in the fight against trafficking could face U.S. sanctions, starting in 2003.

The international community began meeting in 1999 to draft a Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children in conjunction with the U.N. Convention Against Transnational Organized Crime. The U.N. General Assembly adopted the Convention and the Protocol on Trafficking in November 2000. Since 1999, the Organization for Security and Cooperation in Europe (OSCE) has also given a high priority to combating trafficking in the OSCE area. The European Union has also undertaken programs to curb trafficking.

The 106th Congress passed **H.R. 3244**, the **Victims of Trafficking and Violence Protection Act of 2000**, in October 2000 (P.L. 106-386). In the 107th Congress, the House-passed version of **H.R. 2506**, the **Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2002** includes at least \$30 million to fight trafficking and assist victims.

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Trafficking in Women and Children: The U.S. and International Response

Definition

The U.S. Government definition of trafficking in persons encompasses: “All acts involved in the transport, harboring, or sale of persons within national or across international borders through coercion, force, kidnaping, deception or fraud, for purposes of placing persons in situations of forced labor or services, such as forced prostitution, domestic servitude, debt bondage or other slavery-like practices.”¹ Others have put forward slightly different definitions.² In the case of minors, there is general agreement in the United States and much of the international community that the trafficking term applies whether a child was taken forcibly or voluntarily. Trafficking is distinguished from alien smuggling which involves the provision of a service, albeit illegal, to people who knowingly buy the service in order to get into a foreign country.

Scope of the Problem Worldwide

Trafficking in people, especially women and children, for prostitution and forced labor is one of the fastest growing areas of international criminal activity and one that is of increasing concern to the U.S. Administration, Congress, and the international community. Although men are also victimized, the overwhelming majority of those trafficked are women and children. According to official estimates, over 1 million women and children are trafficked each year worldwide for forced labor, domestic servitude, or sexual exploitation.³ An estimated 45,000 to 50,000 persons are trafficked each year to the United States. Trafficking is now considered the third largest source of profits for organized crime, behind only drugs and guns, generating billions of dollars annually.

¹ [<http://secretary.state.gov/www/picw/trafficking>].

² Some religious groups, as well as feminist organizations, have campaigned to broaden the definition of trafficking to include all forms of prostitution, whether forced or voluntary, on grounds that prostitution is never truly voluntary and that traffickers will simply force their victims to claim to be acting voluntarily. However, others have rejected this broadened definition, arguing that it would impede the capacity of the international community to achieve consensus and act decisively against major traffickers.

³ Trafficking in Women and Girls: An International Human Rights Violation. Fact Sheet Released by the Senior Coordinator for International Women’s Issues, Department of State, March 10, 1998.

Trafficking is a problem that affects virtually every country in the world. Generally, the flow of trafficking is from less developed countries to industrialized nations, including the United States, or toward neighboring countries with marginally higher standards of living. Since trafficking is an underground criminal enterprise, there are no precise statistics on the extent of the problem and estimates are unreliable. But even using conservative estimates, the scope of the problem is enormous, between 700,000 and 2,000,000 victims per year. The largest number of victims trafficked internationally still come from Asia, with over 225,000 victims each year believed to be coming from Southeast Asia and over 150,000 from South Asia. The former Soviet Union is now believed to be the largest new source of trafficking for prostitution and the sex industry, with over 100,000 trafficked each year from that region. An additional 75,000 or more are trafficked from Eastern Europe. Over 100,000 come from Latin America and the Caribbean, and over 50,000 victims are from Africa. Most of the victims are sent to Asia, the Middle East, Western Europe and North America. They usually end up in large cities, vacation and tourist areas, or near military bases, where the demand is highest.⁴

Causes of Rise in Trafficking

The reasons for the increase in trafficking are many. In general, the criminal business feeds on poverty, despair, war, crisis, and ignorance. The globalization of the world economy has increased the movement of people across borders, legally and illegally, especially from poorer to wealthier countries. International organized crime has taken advantage of the freer flow of people, money, goods and services to extend its own international reach.

Other contributing factors include:

- the continuing subordination of women in many societies, as reflected in economic, educational, and work opportunity disparities between men and women. Many societies still favor sons and view girls as an economic burden. Desperate families in some of the most impoverished countries sell their daughters to brothels or traffickers for the immediate payoff and to avoid having to pay the dowry to marry off daughters;
- the hardship and economic dislocations caused by the transition following the collapse of Communism in the former Soviet Union and Eastern Europe, as well as the wars in the former Yugoslavia. The lack of opportunity and the eagerness for a better life abroad have made many women and girls especially vulnerable to entrapment by traffickers. With the weakening of law enforcement in post-Communist societies, criminal organizations have grown and established themselves in the lucrative business of international trafficking;

⁴ These figures come from a variety of sources cited specifically under regional trends.

- the high demand, worldwide, for trafficked women and children for sex tourism, sex workers, cheap sweatshop labor, and domestic workers. Traffickers are encouraged by large tax-free profits and continuing income from the same victims at very low risk;
- The inadequacy of laws and law enforcement in most origin, transit, and destination countries, hampers efforts to fight trafficking. Even in the United States, more effective legal remedies are only now being considered. Prostitution is legal or tolerated in many countries, and widespread in most. When authorities do crack down, it is usually against prostitutes, themselves. Penalties for trafficking humans for sexual exploitation are often relatively minor compared with those for other criminal activities like drug and gun trafficking.
- The priority placed on stemming illegal immigration in many countries, including the United States, has resulted in treatment of trafficking cases as a problem of illegal immigration, thus treating victims as criminals. When police raid brothels, women are often detained and punished, subjected to human rights abuses in jail, and swiftly deported. Few steps have been taken to provide support, health care, and access to justice. Few victims dare testify against the traffickers or those who hold them, fearing retribution for themselves and their families since most governments do not offer stays of deportation or adequate protection for witnesses.
- The disinterest and in some cases even complicity of governments is another big problem. Many law-enforcement agencies and governments ignore the plight of trafficking victims and downplay the scope of the trafficking problem. In some cases, police and other governmental authorities accept bribes and collude with traffickers by selling fake documentation, etc.⁵ In addition, local police often fear reprisals from criminal gangs so they find it easier to deny knowledge of trafficking.⁶ Many countries have no specific laws aimed at trafficking in humans.

Traffickers and Their Victims

Chinese, Asian, Mexican, Central American, Russian and other former Soviet Union gangs are among the major traffickers of people. Chinese and Vietnamese Triads, the Japanese Yakuza, South American drug cartels, the Italian mafia, and Russian gangs increasingly interact with local networks to provide transportation, safe houses, local contacts, and documentation.

⁵ For instance, according to Global Survival Network, an NGO group, Russian traffickers can obtain false documentation in order to enable a minor to travel to destination countries to work as a prostitute from corrupt officials in the Ministry of Foreign Affairs for approximately \$800.

⁶ Human Rights Watch/Asia, *Rape for Profit, Trafficking of Nepali Girls and Women to India's Brothels*, 1995, p 59.

Traffickers acquire their victims in a number of ways. Sometimes women are kidnaped outright in one country and taken forcibly to another. In other cases, victims are lured with job offers. Traffickers entice victims to migrate voluntarily with false promises of good paying jobs in foreign countries as au pairs, models, dancers, domestic workers, etc. Traffickers advertise these phony jobs, as well as marriage opportunities abroad in local newspapers. Russian crime gangs reportedly use marriage agency databases and match-making parties to find victims. In some cases, traffickers approach women or their families directly with offers of well-paying jobs elsewhere. After providing transportation and false documents to get victims to their destination, they subsequently charge exorbitant fees for those services, creating life-time debt bondage.

While there is no single victim stereotype, a majority of trafficked women are under the age of 25, with many in their mid to late teens. The fear among customers of infection with HIV and AIDS has driven traffickers to recruit younger women and girls, some as young as seven, erroneously perceived by customers to be too young to have been infected.

Trafficking victims are often subjected to cruel mental and physical abuse in order to keep them in servitude, including beating, rape, starvation, forced drug use, confinement, and seclusion. Once victims are brought into destination countries, their passports are often confiscated. Victims are forced to have sex, often unprotected, with large numbers of partners, and to work unsustainably long hours. Many victims suffer mental break-downs and are exposed to sexually-transmitted diseases, including HIV and AIDS. They are often denied medical care and those who become sick are sometimes even killed.

Regional Trends

Asia and the Pacific. An estimated 225,000 victims are trafficked from Southeast Asia annually according to the U.S. Department of State. The growth of sex tourism in this region is one of the main contributing factors. Large-scale child prostitution occurs in many countries. Thailand, Cambodia, and the Philippines are popular travel destinations for “sex tourists”, including pedophiles, from Europe, North America, Japan, and Australia.

Japan is the largest market for Asian women trafficked for sex, where some 150,000 non-Japanese women are involved. Half are from the Philippines and 40% are from Thailand.⁷ Victims are also trafficked in increasing numbers to newly industrializing countries and regions, including Taiwan, Malaysia, Hong-Kong, and Thailand. Cross-border trafficking is prevalent in the Mekong region of Thailand, Burma, Laos, Cambodia, Vietnam, and the Southern Yunan province of China. Vietnamese women are trafficked to China and Cambodia. According to various NGO sources, hundreds of thousands of foreign women and children have been sold into the Thai sex industry since 1990, with most coming from Burma, Southern China,

⁷ The Coalition against Trafficking in Women (CATW), Trafficking in Women and Prostitution in Asia. The CATW is an international NGO and the Pacific (web site: [<http://www.uri.edu/artsci/wms/hughes/catw/>]).

Laos, and Vietnam. East Asia, especially Japan, is also a destination for trafficked women from Russia and Eastern Europe.

Victims from Southeast Asia, especially China, Burma, the Philippines, Thailand, Cambodia, and Vietnam, are also sent to Western Europe, the United States, Australia, and the Middle East.

In South Asia, the U.S. Department of State estimates that some 150,000 victims are trafficked annually. The low status of women in some societies as well as the growth of sex tourism contribute significantly to trafficking in this region. Sri Lanka and India are the favored destinations of sex tourists from other parts of the world. Bangladesh and Nepal, the poorest countries in the region, are the main source countries. India and Pakistan are the key destination countries. Estimates of the number of Nepalese girls and young women lured or abducted to India for sexual exploitation each year ranges from 5,000 to 10,000. The total number of Nepalese working as prostitutes in India range from 40,000 to 200,000, according to women's rights organization and NGOs. The total Indian prostitute population is estimated to be over 2 million. More than 15,000 women and children are believed to be trafficked out of Bangladesh every year.⁸ Over 4,000 women and children from Bangladesh are trafficked to Pakistan each year. In total, more than 200,000 women are believed to have been trafficked to Pakistan. Also, according to Amnesty International, Afghan women have been sold into prostitution in Pakistan.

Some 7,000 Nepalese women and children are trafficked for prostitution to the Asia Pacific area, especially Hong Kong.⁹ A non-government source reports that about 200,000 Bangladeshi women and children have been trafficked to the Middle East in the last 20 years. Some 20,000 Pakistani children are said to have been trafficked to the United Arab Emirates (UAE). India is a source, transit, and destination country, receiving women and children from Bangladesh, Nepal, Bhutan, Sri Lanka, and Pakistan and sending them to Europe and the Middle East.

Australia has been a prime source of sex tourists in Asia. The Philippines, Thailand, South Korea, Sri Lanka and Hong Kong are some of the primary Asian destinations for organized sex tours from Australia. Indonesia and Taiwan are secondary destinations.¹⁰ Australians also travel to Europe and Latin America. To counterattack this problem, Australia has been active in review and introduction of extraterritorial legislation and public awareness campaigns aimed at travelers.¹¹

⁸ Police estimates, *The Hindu Online*, [<http://www.hinduonline.com/>], February 19, 1998.

⁹ CATW. Trafficking in Women and Prostitution in Asia.

¹⁰ CATW -Asia Pacific, Trafficking in Women and Prostitution in the Asia Pacific.

¹¹ World Congress Against Commercial Sexual Exploitation of Children, Regional Profiles.

International criminal organizations traffic hundreds of Thai women yearly to Australia.¹² Australia plans to introduce tougher laws including long jail terms to curb the increased trafficking of Asian women to Australia for prostitution.¹³

Europe. The former Soviet Union and Central and Eastern Europe have replaced Asia as the main source of trafficked women to Western Europe. Victims come from Russia, Ukraine, and other East European countries. With the economic and political turmoil after the collapse of the Soviet Union, trafficking from the region has escalated from a minor problem before 1991 into a major crisis. As criminal organizations have grown, especially in Russia, they have gravitated to this lucrative business. Russian organizations now play a dominant role not just in the trafficking of Russian women but also women from throughout Eastern Europe. Russian organized crime groups and others including Albanian, Estonian, Chechen, Serb, and Italian groups are involved in human trafficking in Europe. Furthermore, Russian organized crime is starting to take over the sex industry in a number of West European countries. Russian criminal groups reportedly are also gaining control of prostitution in Israel, and parts of the United States.¹⁴

The largest number of the more than 175,000 victims trafficked annually from the former Soviet Union and Eastern Europe come from Russia and Ukraine. In addition, several Central and East European countries are reported to be source, receiving, and transit countries. The conflicts in Bosnia and Kosovo provided new opportunities for traffickers in the former Yugoslavia and the Balkans. Recently, traffickers have targeted refugee women who fled Kosovo. According to the Women's Commission for Refugee Women and Children, Albanian traffickers have smuggled thousands of Kosovo women into Italy by boat for the sex trade.

An estimated 70% of Russian and East European victims are believed to be sent to West European countries (especially Germany, Italy, France, Switzerland, the Netherlands, Greece, Austria, England). Another 15% are sent to the Middle East (especially Israel and Saudi Arabia) and the Far East (especially Japan and Thailand). About 5,000 or 3% are thought to be sent to the United States or Canada. The remainder are sent to Central European countries, especially Poland, Hungary, the Czech Republic.¹⁵

Western European countries are also destination points for victims from other parts of the world, including Africa (Ghana, Nigeria, Morocco), Latin America (Brazil, Colombia, the Dominican Republic), Southeast Asia (the Philippines, Thailand).¹⁶

¹² CATW - Asia Pacific, *Trafficking in Women and Prostitution in the Asia Pacific*, Gabriela, Statistics and the State of the Philippines, July 24, 1997.

¹³ Maria Moscaritolo, "Australia takes aim at Asian sex slave trade," Reuters, May 26, 1998.

¹⁴ Global Survival Network. *An Expose of the Traffic in Women for Prostitution from the Newly Independent States*. Washington, D.C., 1998, p. 5-10.

¹⁵ Ibid.

¹⁶ Europe national data, "Trafficking of Women to the European Union: Characteristics, (continued...)"

Middle East. The sexual exploitation of women and children in the Middle East tends to involve the import of women from other regions. The exploitation of Middle Eastern women tends to have less of a commercial dimension.¹⁷

Women and children, mostly from Asia (Thailand, the Philippines, Indonesia), are trafficked as prostitutes or brides to the Middle East (Saudi Arabia, The United Arab Emirates). Women from the former Soviet Republics are sent to Israel. According to the Israel Women's Network, every year several hundred to 2000 women from Russia and the former Soviet Union are brought to Israel by well-organized criminal groups. Israel has no specific law against trafficking and prostitution is not illegal.¹⁸

Latin America and the Caribbean. Estimate of the number of Latin American and Caribbean women and children trafficked for sexual exploitation each year is over 100,000, according to the U.S. Department of State. Impoverished children are particularly vulnerable to trafficking for prostitution. The Organization of American States estimates that more than 2 million children are being sexually exploited in Latin America.

The presence of sex tourism from Europe, North America, and Australia has significantly contributed to the trafficking of women and children. A growing number of sex tourists are going to Latin America, partly as a result of recent restrictions placed on sex tourism in Thailand, Sri Lanka, and other Asian countries.¹⁹ Favored sex tourism destinations are Brazil, the Dominican Republic, Mexico, Honduras, Costa Rica, Trinidad and Tobago, and Argentina.

Brazil has one of the worst child prostitution problems in the world.²⁰ More than 50,000 women from the Dominican Republic reportedly have been trafficked abroad.

Victims from Latin America and the Caribbean are trafficked to Western Europe and the United States. The Central American countries and Mexico are also transit countries for trafficking to the United States.

Africa. In Africa, over 50,000 victims are believed to be trafficked annually according to the U.S. Department of State, although the extent of trafficking is not well documented. Like elsewhere, poverty and the low status of women are major contributing factors. In addition, wars and civil strife engulfing countries like Sudan

¹⁶ (...continued)

Trends and Policy Issues," European Conference on Trafficking in Women, (June 1996), IOM, May 7, 1996.

¹⁷ World Congress Against Commercial Sexual Exploitation of Children, Regional Profiles.

¹⁸ Michael Specter, "Traffickers' New Cargo: Naive Slavic Women," New York Times, January 11, 1998.

¹⁹ Casa Alianza/Covenant House Latin America, "Casa Alianza Warns That Central America Is New Sex Tourism Destination," November 17, 1997.

²⁰ Social Security Network, "Brazil spends \$1.7mil on helping child prostitutes." Reuters, June 12, 1998.

and Rwanda, as well as the indifference of some governments make women and children vulnerable to trafficking.²¹

Trafficking in children for labor is a serious problem in Togo and Benin as well as Botswana, Zaire, Somalia, Ethiopia, Zambia, Nigeria, Algeria. Victims are trafficked to Nigeria, Gabon, Ghana, and South Africa. Africans, especially women from Nigeria are trafficked to Western Europe and the Middle East.

Trafficking in the United States

Between 45,000 and 50,000 women and children are trafficked to the United States each year, according to the most recent Department of State estimates.²² Most come from Southeast Asia and the former Soviet Union. About half of those are forced into sweatshop labor and domestic servitude. The rest are forced into prostitution and the sex industry, or in the case of young children, kidnaped and sold for adoption. While many victims come willingly, they are not aware of the terms and conditions they will face. Women trafficked to the United States most often wind up in the larger cities in New York, Florida, North Carolina, California, and Hawaii.²³ But the problem is also migrating to smaller cities and suburbs. Russian crime groups are said to be actively involved in trafficking and the sex industry in the United States.

The United States is the major destination country for young children kidnaped and trafficked for adoption by childless couples unwilling to wait for a child through legitimate adoption procedures and agencies. The largest source country is Mexico. Mexican children over twelve years of age are kidnaped and trafficked to the United States for child prostitution.

American men, along with Europeans and Australians, are reportedly the most numerous sex tourists in Central America (Costa Rica, Honduras), South East Asia (The Philippines, Thailand), and South Asia (India, Sri Lanka). Many companies operating in a number of large cities reportedly specialize in sex tours.

As in many countries, existing U.S. laws are widely believed to be inadequate to deal with trafficking in women and children. Nor are there thought to be adequate laws and services to protect and assist victims.

U.S. Policy

The Clinton Administration. The trafficking issue has been gaining attention in the United States and worldwide since the late 1990s. The problem was

²¹ John Eibner of Christian Solidarity International, Karin Davies, "Slavic Trade Thrives in Sudan," Associated Press, February 7, 1998.

²² Testimony of Frank E. Loy, Undersecretary of State for Global Affairs, before the Subcommittee on Near Eastern and South Asian Affairs, Senate Foreign Relations Committee, February 22, 2000.

²³ U.S. Department of State. Bureau of Consular Affairs, Fraud Digest, November/December, 1997.

addressed as a priority by the Clinton Administration and the 106th Congress. As part of former President Clinton's announced International Crime Control Strategy, an interagency working group was set up to address international crime implications of trafficking. On March 11, 1998, President Clinton issued a directive establishing a U.S. government-wide anti-trafficking strategy of (1) prevention, (2) protection and support for victims, and (3) prosecution of traffickers. The strategy, as announced, had strong domestic and international policy components.

On the domestic side, a Workers' Exploitation Task Force, chaired by the Department of Justice's Civil Rights Division and the Solicitor's Office in the Department of Labor, was charged with investigating and prosecuting cases of exploitation and trafficking. In addition, the Department of Justice reviewed existing U.S. criminal laws and their use to see if they adequately dealt with the crime of trafficking. The Department of State funded the creation of a database on U.S. and international legislation on trafficking. An Interagency Council on Women formed by the Clinton Administration established a senior governmental working group on trafficking. The Council sponsored a meeting of governmental and non-government representatives from source countries, transit countries, and international organizations to call attention to the trafficking issue and to develop strategies for combating this problem.

The Clinton Administration worked with Congress on what it considered urgently needed legislation to strengthen the tools available to fight trafficking at home and abroad. In particular, the Administration argued for legislation building on its framework of "prevention, protection, and prosecution" to strengthen tools available for the fight and to help advance the U.S. agenda on trafficking in other countries. The Clinton Administration also urged the enactment of legislation to encourage and support strong action by foreign governments and help the work of non-governmental organizations (NGOs) in this area:

- In the area of prevention, the Clinton Administration outlined the need for programs to increase economic opportunities for potential victims and dissemination of information in other countries to increase public awareness of trafficking dangers and funding for more research on trafficking.
- In terms of victim protection and assistance, the Clinton Administration argued for legislation to provide shelter and the support services to victims who are in the country unlawfully and therefore presently ineligible for assistance. It pressed for creation of a humanitarian, non-immigrant visa classification to allow victims to receive temporary resident status so that they could receive assistance and help to prosecute traffickers. Also, support was sought for developing countries to protect and reintegrate trafficking victims once they were returned.
- As far as prosecution and enforcement, the Clinton Administration pressed for laws to more effectively go after traffickers and increase the penalties they can face. In addition, restitution for trafficked victims was sought in part by creating the possibility of bringing

private civil lawsuits against traffickers. The Department of Justice called for laws that would expand the definition of involuntary servitude, criminalize a broader range of actions constituting involuntary servitude, and increase the penalties for placing people in involuntary servitude. Justice Department spokesmen also urged that prosecutors be give the capability to go after those who profit from trafficking, not just those directly involved in trafficking.²⁴ They also called for amending immigration statutes to punish traffickers who entrap victims by taking their passports and identification from them.

The Bush Administration. The Bush Administration and the 107th Congress have continued the anti-trafficking effort with strong bipartisan support. Attorney General John Ashcroft announced in March 2001 that U.S. law enforcement agencies, including the FBI, the Immigration and Naturalization Service, and the Justice Department’s Civil Rights Division would cooperate closely to upgrade their efforts to combat trafficking. The Justice Department also announced new guidelines for federal prosecutors to pursue trafficking cases.²⁵

On July 12, 2001, the State Department issued its first *Annual Trafficking in Persons Report*, mandated by Congress under P.L.106-386.²⁶ On the same day, the State Department released a fact sheet outlining U.S. Government programs and initiatives against international trafficking in persons.²⁷ At his press conference releasing the report, Secretary of State Colin Powell announced the formation of a new interagency task force on trafficking in persons. The task force would identify what more needs to be done “to safeguard the vulnerable, to punish the traffickers, to care for their victims, and to prevent future trafficking.” He stressed that the United States would work closely with other governments, non-governmental organizations and concerned people throughout the world to put an end to trafficking.

The report rates countries according to whether they meet “minimum standards” with regard to their anti trafficking commitment and policies. Governments meeting “minimum standards” are defined in the **Trafficking and Violence Protection Act of 2000 (P.L.106-386)** as those that: (1) prohibit trafficking and punish acts of trafficking; (2) prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault, for the knowing commission of trafficking in some of its most reprehensible forms (trafficking for sexual purposes, trafficking involving rape or kidnaping, or trafficking that causes a death); (3) prescribe punishment that is

²⁴ Testimony of William R. Yeomans, Chief of Staff of the Civil Rights Division, Department of Justice, before the Subcommittee on Near Eastern and South Asian Affairs, Senate Foreign Relations Committee, April 4, 2000.

²⁵ Attorney General John Ashcroft’s news conference on March 27, 2001. See [<http://www.usdoj.gov/ag/speeches/2001/032701workerexploitation.htm>].

²⁶ See [<http://www.state.gov/g/inl/rls/tiprpt/2001>].

²⁷ See [<http://www.state.gov/g/inl/rls/fs/2001/index.cfm?docid=4051>]

sufficiently stringent to deter, and that adequately reflects the offense's heinous nature; and (4) make serious and sustained efforts to eliminate trafficking.²⁸

Countries are ranked in three groups or tiers. Countries that are not listed either are not seen as having a significant trafficking problem as source, transit, or destination countries or there is insufficient information about their role.

Tier I is made up of countries deemed by the State Department to have a serious trafficking problem but fully complying with the Act's minimum standards for the elimination of trafficking.

(Included are Austria, Belgium, Canada, Colombia, Germany, Hong Kong, Italy, The Netherlands, Spain, Switzerland, Taiwan, and the United Kingdom)

Tier 2 countries are those whose governments the State Department views as not fully complying with those standards but making "significant efforts to bring themselves into compliance."

(They include Angola, Bangladesh, Benin, Brazil, Bulgaria, Burkina Fasso, Cambodia, Cameroon, China, Costa Rica, Cote d'Ivoire, Czech Republic, Dominican Republic, El Salvador, Ethiopia, France, Georgia, Ghana, Guatemala, Haiti, Honduras, Hungary, India, Japan, Kyrgyzstan, Laos, Lithuania, Macedonia, Mali, Mexico, Moldova, Morocco, Nepal, Nigeria, Philippines, Poland, Sierra Leone, Singapore, Slovenia, South Africa, Sri Lanka, Sweden, Thailand, Togo, Uganda, Ukraine, and Vietnam)

Tier 3 are those countries whose governments the State Department deems as not fully complying with those standards and not making significant efforts to do so. *(They include Albania, Bahrain, Belarus, Bosnia-Herzegovina, Burma, Democratic Republic of Congo, Gabon, Greece, Indonesia, Israel, Kazakhstan, Lebanon,*

²⁸ The Act also established criteria that should be considered as evidence of serious and sustained efforts to eliminate trafficking: These are whether a government (1) vigorously investigates and prosecutes acts of trafficking within its territory; (2) protects victims of trafficking, encourages victims' assistance in investigation and prosecution, provides victims with legal alternatives to their removal to countries where they would face retribution or hardship, and ensures that victims are not inappropriately penalized solely for unlawful acts as a direct result of being trafficked; (3) has adopted measures, such as public education, to prevent trafficking; (4) cooperates with other governments in investigating and prosecuting trafficking; (5) extradites persons charged with trafficking; (6) monitors immigration and emigration patterns for evidence of trafficking, and responds appropriately; and (7) vigorously investigates and prosecutes public officials who participate in trafficking, and takes all appropriate measures against such officials who condone trafficking.

The Act also spells out three factors that the Department is to consider in determining whether a country is making significant efforts to bring itself into compliance with these minimum standards. These considerations are: (1) the extent of trafficking in the country; (2) the extent of governmental noncompliance with the minimum standards, particularly the extent to which government officials have been complicit in trafficking; and (3) what measures are reasonable to bring the government into compliance with the minimum standards in light of the government's resources and capabilities.

Malaysia, Pakistan, Qatar, Romania, Russia, Saudi Arabia, South Korea, Sudan, Turkey, United Arab Emirates, and the Republic of Yugoslavia)

P.L. 106-386 makes countries listed in Tier 3 (beginning with the 2003 State Department report) subject to sanctions, including termination of non-humanitarian, non-trade-related assistance and loss of U.S. support for assistance (except for humanitarian, trade-related, and certain development-related assistance) from international financial institutions, specifically the International Monetary Fund and multilateral development banks such as the World Bank. Sanctions may be waived by the President based on national interest.

The International Response

The United States and other countries are also pursuing a number of bilateral and multilateral programs and initiatives to combat trafficking. The steps taken by the United States internationally include the following:

- The Departments of State and Justice are training foreign law enforcement and immigration officers to better identify and crack-down on traffickers and their victims at the border.
- U.S. embassies and consulates worldwide are working with other countries to stop international trafficking in women and children. The United States has expanded its program to heighten public awareness about trafficking in source countries, targeting the messages to potential victims.
- The United States is also working with the European Union, the Group of Eight, the United Nations, the Organization for Security and Cooperation in Europe (OSCE) and the governments of Israel, Italy, Finland, and Ukraine, and other countries to combat trafficking in women and children.

The United States and the European Union agreed on a joint initiative to combat trafficking in November 1997.²⁹ U.S. and EU officials met in Luxembourg to launch a jointly funded initiative against trafficking in women from Russia and Eastern Europe. It is primarily an information campaign, warning potential victims and an education program for law enforcement, customs and consular officials to heighten their awareness of the problem. Pilot projects were launched in Poland by the EU and in Ukraine by the United States. If successful, the program could be expanded to other countries. The United States has initiated bilateral cooperation programs in Russia, other former Soviet Republics, Bosnia, Albania, Poland, Bulgaria, Hungary, Thailand and the Philippines to fight trafficking.

At the OSCE Summit Meeting in Istanbul in November 1999, leaders of the 55 OSCE member states from Europe, Central Asia, and North America, agreed to make

²⁹ Fact Sheet: US-EU Initiative to Prevent Trafficking in Women. USIS Washington File, December 5, 1997.

combating trafficking in the OSCE area (where some 200,000 people are trafficked annually) a priority issue. A follow up meeting on trafficking was held in Vienna on June 19, 2000. The participating states agreed on steps to increase their efforts and better coordinate actions to fight the problem.

The international community began meeting in 1999 to draft a Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children in conjunction with the U.N. Convention Against Transnational Organized Crime. The United States, along with Argentina, introduced the draft protocol in January 1999. Negotiations were concluded in 2000 on a revised draft. On November 15, 2000, the U.N. General Assembly adopted the Convention on Transnational Crime, including the Protocol on Trafficking. The Convention and Protocols formally signed in Palermo, Italy, in December 2000, were designed to enable countries to work together more closely against criminals engaged in cross-border crimes.

The United States is party to two other international agreements that have been adopted to address aspects of trafficking in children. The International Labor Organization (ILO) Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor was ratified by United States in December 1999.³⁰ The Protocol to the Convention on the Rights of the Child on Sale of Children, Child Prostitution and Child Pornography was signed by the United States July 2000.³¹

Congressional Action

106th Congress. The last Congress took several legislative initiatives on the issue of trafficking in persons for sexual and other exploitation. The focus of bills paralleled the Clinton Administration's framework of "prevention, protection, and prosecution. However, some of the congressional initiatives went beyond Clinton Administration recommendations in several areas, especially in calling for actions against governments that tolerate trafficking.

Several bills on trafficking were introduced in the House and Senate in 1999 and 2000.³² **H.R. 3244**, was introduced by Rep. Christopher Smith (R-NJ) on November

³⁰ See [<http://www.ilo.org/public/english/standards/ipecc/about/factsheet/facts23.htm>].

³¹ See [<http://www.unicef.org/crc/crc.htm>].

³² On March 11, 1999, **S. 600** was introduced by Senator Paul Wellstone (D-Minn.) and referred to the Committee on Foreign Relations. An identical bill, **H.R. 1238**, was introduced in the House by Representative Louise Slaughter (D-N.Y.) The bills were entitled the International Trafficking of Women and Children Victim Protection Act of 1999. Subsequently, **H.R. 1356** was introduced in the House by Representative Christopher Smith (R-N.J.) on March 25, 1999 and referred to several Committees. It was titled the Freedom From Sexual Trafficking Act of 1999.

On October 27, 1999, Rep. Sam Gejdenson (D-CT) introduced **H.R. 3154**, the "Comprehensive Anti-Trafficking in Persons Act of 1999." Senator Paul D. Wellstone introduced an identical bill in the **Senate, S. 1842**. These bills had the support of the Clinton
(continued...)

8, 1999. It was co-sponsored by Representative Sam Gejdenson (D-CT) and others who had taken a strong interest in previous initiatives, in an effort to combine the most important elements and move legislation forward. The bill was referred to several House Committees.

H.R. 3244, as amended was marked up by the **House International Relations Committee**, on November 9, 1999 and was reported out as amended on November 22, 1999 (**H.Rept. 106-487, Part I**). The bill was also referred to the Judiciary and Banking and Financial Services, and Ways and Means Committees. The **House Judiciary Committee** reported the bill as amended on April 14, 2000 (**H.Rept. 106-487, Part II**). The House Ways and Means Committee was granted an extension for further consideration of the bill until May 3, 2000. On May 9, 2000, the bill was brought to the floor under a suspension of the rules and passed by voice vote.

In the Senate, two other bills similar to **H.R. 3244** were introduced in April 2000. On April 12, 2000, Senator Paul Wellstone (D-MN) introduced **S. 2414**, the “**Trafficking Victims Protection Act.**” On April 13, Senator Sam Brownback (R-KS) introduced **S. 2449**, the “**International Trafficking Act of 2000.**” Both were referred to the Senate Foreign Relations Committee.

H.R. 3244 was received in the Senate on May 10, 2000, read a first time on May 25, read a second time on June 6, and placed on the Legislative Calendar. On July 27, 2000, the full Senate took up H.R.3244, and passed a substituted S.Amdt. 4027 sponsored by Senator Sam Brownback (R-KS) and Sen. Paul Wellstone (D-MN), as further amended by S.Amdt. 4028 introduced by Senator Orrin Hatch (R-UT).

Differences between the House and Senate versions of **H.R. 3244** were worked out in Conference September 26, 2000. In conference, the bill was combined with the Violence against Women Act of 2000 and repackaged as the **Victims of Trafficking and Violence Protection Act of 2000**, along with miscellaneous anti-crime provisions. The **Conference Report H.Rept. 106-939** was agreed to by the House on October 6, 2000, by a vote of 371 to 1. The Senate agreed to the conference report by a vote of 95-0 on October 11, 2000. President Clinton signed the bill into law on October 28, 2001 (**P.L.106-386**).

Among its key provisions, **H.R. 3244**, as passed:

- Directed the Secretary of State to provide an annual report by June 1, listing countries that do and do not comply with minimum standards for the elimination of trafficking and to provide in his annual report on human rights information on a country-by-country basis describing the nature and extent of severe forms of trafficking in persons in each country and an assessment of the efforts by governments to combat trafficking;

³² (...continued)

Administration as being in line with its own approach.

- Established an Interagency Task Force to Monitor and Combat Trafficking, chaired by the Secretary of State, and authorized the Secretary to establish within the Department of State an Office to Monitor and Combat Trafficking to assist the Task Force;
- Called for measures to enhance economic opportunity for potential victims of trafficking as a method to deter trafficking, to increase public awareness, particularly among potential victims, of the dangers of trafficking and the protections that are available for victims, and for the government to work with NGOs to combat trafficking;
- Established programs and initiatives in foreign countries to assist in the safe integration, reintegration, or resettlement of victims of trafficking and their children, as well as programs to provide assistance to victims of severe forms of trafficking in persons within the United States, without regard to such victims' immigration status and to make such victims eligible, without regard to their immigration status, for any benefits that are otherwise available under the Crime Victims Fund;
- Provided protection and assistance for victims of severe forms of trafficking while in the United States;
- Amended the code to make funds derived from the sale of assets seized from and forfeited by trafficking available for victims assistance programs under this Act;
- Amended the Immigration and Nationality Act to allow the Attorney General to grant up to 5000 non-immigrant visas per year to certain victims of severe forms of trafficking who are in the United States and who would face a significant possibility of retribution or other harm if they were removed from the United States. In addition, amended the Act to adjust to lawful permanent resident the status of up to 5000 victims per year who have been in the United States continuously for three years since admission, who have remained of good moral character, who have not unreasonably refused to assist in trafficking investigations or prosecutions, and who would face a significant possibility of retribution or other harm if removed from the United States;
- Established minimum standards applicable to countries that have a significant trafficking problem. Urged such countries to prohibit severe forms of trafficking in persons, to punish such acts, and to make serious and sustained efforts to eliminate such trafficking;
- Provided for assistance to foreign countries for programs and activities designed to meet the minimum international standards for the elimination of trafficking;

- Withheld U.S. non-humanitarian assistance and instructed the U.S. executive director of each multilateral development bank and the International Monetary Fund to vote against non-humanitarian assistance to such countries that do not meet minimum standards against trafficking and are not making efforts to meet minimum standards, unless continued assistance is deemed to be in the U.S. national interest;
- Encouraged the President to compile and publish a list of foreign persons who play a significant role in a severe form of trafficking in persons. Also encouraged the President to impose sanctions under the International Emergency Economic Powers Act, including the freezing of assets located in the United States, and to exclude significant traffickers, and those who knowingly assist them, from entry into the United States; and
- Amended the U.S. Code to double the current maximum penalties for peonage, enticement into slavery, and sale into involuntary servitude from 10 years to 20 years imprisonment and to add the possibility of life imprisonment for such violations resulting in death or involving kidnapping, aggravated sexual abuse, or an attempt to kill.

The conference agreement (**H.Rept. 106-997**) on the **Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2001 (H.R. 4811)** earmarked at least \$1,350,000 for the Protection Project to study international trafficking, prostitution, slavery, debt bondage, and other abuses of women and children (**P.L. 106-429, Chapter 6, Sec.601**).

107th Congress. The version of **H.R. 2506**, the **Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2002**, passed by the House on July 24, 2001, includes at least \$30 million to fight trafficking and assist victims. Under SEC. 584, Funding for Trafficking Victims Protection Act of 2000, the House directed that of the amounts made available for development assistance, the Economic Support Fund, assistance for Eastern Europe and the Baltic states, assistance for the Independent States of the Former Soviet Union, International Narcotics control and law enforcement, and Migration and refugee assistance:

(1) \$10,000,000 shall be made available for prevention of trafficking in persons, as authorized by section 106 of the Trafficking Victims Protection Act of 2000 (division A of P.L. 106-386);

(2) \$10,000,000 shall be made available for the protection and assistance for victims of trafficking of persons, as authorized by section 107(a) of such Act; and

(3) \$10,000,000 shall be made available to assist foreign countries to meet minimum standards for the elimination of trafficking, as authorized by section 134 of the Foreign Assistance Act of 1961.

The Foreign Operations bill also stipulated that of the funds appropriated for assistance to the Independent States of the Former Soviet Union, not less than

\$1,500,000 should be available only to meet the health and other assistance needs of victims of trafficking in persons.

The Senate Appropriations Committee took up and approved their version of the Foreign operations bill on July 26, 2000 but has not yet released its report.

Current Trafficking Issues

A broad consensus seems to be shared in Congress and the policy community on the need for decisive action to curb trafficking. And the general framework of “prevention, protection, and prosecution” also has widespread support. Differences are still apparent over some of the details.

Should sanctions against foreign governments be used as a policy instrument? Most agree that extensive international cooperation will be needed to stop international trafficking and that both “carrots” and “sticks” may be needed to encourage other governments, including assisting governments in their efforts to curb trafficking. The Clinton Administration argued that sanctions are unnecessary and counterproductive since very few, if any, governments favor or support trafficking. Instead, it was argued, the focus should be on cooperation. H.R. 3244 as agreed in conference called for sanctions against those countries that not only do not meet minimum standards against trafficking but that also are making no efforts to meet minimum standards. It gave the President broad waiver authority. In the Bush Administration, Secretary of State Powell has expressed concern in general that sanctions are an overused policy tool. How this view will influence current Administration policy on trafficking is not clear. The debate over this issue may intensify following the issuance of the first State Department Annual Report on Trafficking. The tier 3 list of non-cooperating countries includes a number of key U.S. allies and countries which are some of the largest recipients of U.S. assistance. However, the sanctions will not go into effect until 2003 by which time the rankings could change.

Who is eligible for protection as a victim of trafficking? Should protection be limited to victims of “severe forms of trafficking”³³ and require that victims prove that they are in the United States as a direct result of trafficking and that they have a well-founded fear of retribution if they are returned to their country of origin? Critics argue that the line between pure victims and those who have a degree of complicity in being brought to the United States may be difficult to draw. Such distinctions, they argue, will leave some victims unprotected. H.R. 3244 as passed gives the executive branch some discretion in determining who qualifies.

³³ Severe forms of trafficking is defined in Section 3 of the bill as “sex trafficking in which either a commercial sex act or any act or event contributing to such act is effected or induced by force, coercion, fraud or deception or in which the person induced to perform such acts has not attained the age of 18,” as well as “the purchase, sale, recruitment or harboring, transportation, transfer or receipt for the purpose of subjection to involuntary servitude....effected by force, coercion, fraud, or deception.”

More broadly, differing perspectives on what constitutes trafficking could make international cooperation more difficult. In the United States, some politicians, religious groups, as well as feminist and other organizations, have campaigned to broaden the definition of trafficking to include all prostitution, whether forced or voluntary, with the argument that no one really wants to be a prostitute, that prostitutes are always victims, and that traffickers will simply force their victims to claim to be acting voluntarily. However, a number of countries including some western democracies with otherwise strong human rights records have legal and regulated prostitution, believing that the “world’s oldest profession” cannot be stamped out and that a carefully regulated sex industry is the best protection for those involved from becoming victims of trafficking abuse.

Should victims of trafficking receive special visa status and eventual eligibility for permanent residency? H.R. 3244 as agreed in conference grants special visa status to up to 5,000 victims per year. Proponents believe that this is one of the most important steps to free victims from their bondage. Some critics fear that such an exception from general immigration rules will set a dangerous precedent for other categories of people who are in the country illegally but believe they have been the victims of mistreatment. Others see the 5,000 ceiling on visas as being arbitrarily restrictive. Controversy also exists over what U.S. social benefits should be made available to victims of trafficking, given the precedents that might be set.

Is the government adequately organized to fight trafficking? H.R. 3244 as agreed in conference called for the establishment of an interagency task force to monitor and combat trafficking. The Clinton Administration argued that no new entity is required, pointing to the fact that it had already established a Workers’ Exploitation Task Force, chaired by the Department of Justice’s Civil Rights Division and the Solicitor’s Office in the Department of Labor for investigating and prosecuting cases of exploitation and trafficking. Secretary of State Powell announced in July 2001 that an interagency task force will be established by the Bush Administration. Proponents of the bill believe that interagency coordination needs to take place at the highest levels of government.